

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

SIXTEENTH LEGISLATIVE DAY
TUESDAY, JANUARY 27, 2004

Senate Chamber

President Risch called the Senate to order at 11:30 a.m.

Roll call showed all members present except Senator Davis and President Pro Tempore Geddes, absent and formally excused by the Chair; and Senators Burkett, Malepeai, Marley, Schroeder, and Stennett, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Robbin Tyrrell, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Burkett, Malepeai, and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 26, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senators Marley and Schroeder were recorded present at this order of business.

SR 108
BY STATE AFFAIRS COMMITTEE
A SENATE RESOLUTION
ESTABLISHING RATES OF COMPENSATION FOR
EMPLOYEES OF THE SENATE.

Be It Resolved by the Senate of the State of Idaho:

WHEREAS, Senate Rule 7(C) provides that the compensation of employees of the Senate shall be fixed by resolution of the Senate.

NOW, THEREFORE, BE IT RESOLVED by the members of the Senate, assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, that the compensation of the various officers and employees of the Senate of the Second Regular Session of the Fifty-seventh Idaho Legislature be fixed as follows:

1. Secretary of the Senate \$20.49 hourly
2. Assistant Secretary of the Senate \$14.35 hourly
3. Sergeant at Arms, Docket Clerk, Journal Clerk, Secretary to the Secretary of the Senate \$12.64 hourly
Provided, however, that any person who is serving in their second year of such service shall be paid the hourly rate of \$12.96; and further provided that any person who is serving in their third year of such service shall be paid the hourly rate of \$13.43; and further provided that any person who is serving in their fourth or subsequent year of such service shall be paid the hourly rate of \$13.91.
4. Assistant to the Majority Leader, Assistant to the Assistant Majority Leader and Assistant to the Caucus Chairman, Assistant to Minority Leadership, Minority Leadership Staff Assistant, Assistant Sergeant at Arms, Research Assistant Secretary, Secretary to State Affairs Committee, Secretary to Finance Committee, Secretary to Judiciary and Rules Committee, Secretary to Health and Welfare Committee, Secretary to Education Committee, Secretary to Agricultural Affairs Committee, Secretary to Commerce and Human Resources Committee, Secretary to Resources and Environment Committee, Secretary to Local Government and Taxation Committee, Secretary to Transportation Committee, Pool Secretaries, Chief Mail Clerk, Lounge Hostesses \$10.57 hourly
Provided, however, that any person who is serving in their second year of such service shall be paid the hourly rate of \$11.10; and further provided that any person who is serving in their third year of such service shall be paid the hourly rate of \$11.36; and further provided that any person who is serving in their fourth or subsequent year of such service shall be paid the hourly rate of \$11.63.
5. Mail Clerks, Senate Doorkeeper \$9.43 hourly
Provided, however, that any person who is serving in their second year of such service shall be paid the hourly rate of \$9.89; and further provided that any person who is serving in their third year of such service shall be paid the hourly rate of \$10.14; and further provided that any person who is serving in their fourth or subsequent year of such service shall be paid the hourly rate of \$10.36.
6. Pages, Messengers \$ 5.65 hourly
7. Chaplain \$17.45 hourly

SR 108 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

January 27, 2004

The JUDICIARY AND RULES Committee reports that **S 1227, S 1228, S 1229, S 1230, and SCR 120** have been correctly printed.

DARRINGTON, Chairman

S 1227 and **S 1228** were referred to the Judiciary and Rules Committee.

S 1229 and **S 1230** were referred to the Resources and Environment Committee.

SCR 120 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 26, 2004

The STATE AFFAIRS Committee reports out **S 1214** with the recommendation that it do pass.

SORENSEN, Chairman

S 1214 was filed for second reading.

January 26, 2004

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Jean McDevitt to the Idaho Park and Recreation Board, term to expire January 30, 2009.

NOH, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

January 27, 2004

The LOCAL GOVERNMENT AND TAXATION Committee reports out **S 1222** and **S 1223** with the recommendation that they do pass.

BUNDERSON, Chairman

S 1222 and **S 1223** were filed for second reading.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

January 26, 2004

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Karl J. Dreher of Boise, Idaho, was appointed Director of the Department of Water Resources to serve a term commencing January 4, 2003, and expiring January 4, 2007.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Resources and Environment Committee.

January 27, 2004

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Deborah Spindler of Boise, Idaho, to be Acting State Senator for Legislative District 17, Ada County, State of Idaho. This appointment will be effective January 28, 2004, and continue until such time as Senator Elliot Werk is able to resume his duties.

Sincerely,
/s/ Dirk Kempthorne
Governor

THE OFFICE OF THE GOVERNOR EXECUTIVE DEPARTMENT BOISE, IDAHO CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that pursuant to the provisions of Section 59-917, *Idaho Code*, Elliot Werk, State Senator, District 17, Ada County, State of Idaho, has nominated Deborah Spindler of Boise, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 17, Ada County.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Deborah Spindler, to the office of State Senator, District 17, Ada County, State of Idaho, for a term commencing on January 28, 2003, and continuing until such time as Senator Elliot Werk is able to resume his duties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this twenty-seventh day of January, in the year of our Lord Two thousand and four and of the Independence of the United States of America, the two hundred and twenty-eighth year.

/s/ BY THE GOVERNOR DIRK KEMPTHORNE
/s/ SECRETARY OF STATE BEN YSURSA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

January 26, 2004

Mr. President:

I transmit herewith **H 475**, **H 503**, and **H 504** which have passed the House.

JUKER, Chief Clerk

H 475, **H 503**, and **H 504** were filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced the Judiciary and Rules Committee report relative to the Gubernatorial appointment of Carolyn Meline, having been held, was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Darrington, seconded by Senator Marley, the Gubernatorial appointment of Carolyn Meline as a member of the Idaho State Board of Correction was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that **SCR 119** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

Moved by Senator Noble, seconded by Senator Stennett, that **SCR 119** be adopted. The question being, "Shall the resolution be adopted?"

Roll call vote was requested by Senators Schroeder, Ingram, and Calabretta.

Roll call resulted as follows:

AYES--Andreason, Bailey, Bilbao (Little), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Gannon, Goedde, Hill, Ingram, Kennedy, Keough, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 31.

NAYS--Pearce, Schroeder. Total - 2.

Absent and excused--Davis, Geddes. Total - 2.

Total - 35.

Whereupon the President declared **SCR 119** adopted, title was approved, and the resolution ordered transmitted to the House.

The President announced the Resources and Environment Committee report relative to the Gubernatorial appointment of Alex Irby was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Brandt, seconded by Senator Stennett, the Gubernatorial appointment of Alex Irby as a member of the Idaho Fish and Game Commission was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Resources and Environment Committee report relative to the Gubernatorial appointment of Cameron Wheeler retained its place on the calendar for one legislative day.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1231 BY FINANCE COMMITTEE AN ACT

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR FISCAL YEAR 2004; AND DECLARING AN EMERGENCY.

S 1232 BY JUDICIARY AND RULES COMMITTEE AN ACT

RELATING TO AQUACULTURE OPERATIONS; AMENDING CHAPTER 70, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-7041, IDAHO CODE, TO PROHIBIT DAMAGE TO AQUACULTURE OPERATIONS, TO SET FORTH PENALTIES, TO PROVIDE FOR COURT-ORDERED RESTITUTION AND TO PERMIT CIVIL REMEDIES.

S 1233 BY JUDICIARY AND RULES COMMITTEE AN ACT

RELATING TO JUVENILES; AMENDING SECTION 33-207, IDAHO CODE, TO PROVIDE THAT PARENTS OR GUARDIANS OF A CHILD OF SCHOOL AGE SHALL BE GUILTY OF A MISDEMEANOR IF SUCH PARENT OR GUARDIAN KNOWINGLY FAILS, NEGLECTS OR REFUSES TO ASSUME RESPONSIBILITY FOR THE CHILD'S EDUCATION OR HAS ALLOWED THE CHILD TO BECOME AN HABITUAL TRUANT, TO PROVIDE FOR COURT-IMPOSED CONDITIONS AND THE SUSPENSION OF SENTENCES AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY.

S 1234 BY JUDICIARY AND RULES COMMITTEE AN ACT

RELATING TO DOMESTIC VIOLENCE; AMENDING SECTION 18-918, IDAHO CODE, TO MAKE TECHNICAL CHANGES, TO PROVIDE CLARIFYING LANGUAGE, TO SET

FORTH PUNISHMENT FOR SECOND AND THIRD CONVICTIONS OF MISDEMEANOR DOMESTIC VIOLENCE OR SUBSTANTIALLY CONFORMING FOREIGN CRIMINAL VIOLATIONS NOTWITHSTANDING THE FORM OF THE JUDGMENT OR WITHHELD JUDGMENT, TO SET FORTH PUNISHMENT FOR PERSONS WHO HAVE PLED GUILTY OR BEEN FOUND GUILTY OF A FELONY DOMESTIC VIOLENCE VIOLATION OR OF ANY SUBSTANTIALLY CONFORMING FOREIGN CRIMINAL FELONY VIOLATION NOTWITHSTANDING THE FORM OF THE JUDGMENT OR WITHHELD JUDGMENT AND WHO PLEAD GUILTY OR ARE FOUND GUILTY OF A FURTHER VIOLATION WITHIN FIFTEEN YEARS, TO DEFINE "SUBSTANTIALLY CONFORMING FOREIGN CRIMINAL VIOLATION" AND TO PROVIDE FOR A DETERMINATION BY THE COURT.

S 1235

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE TERRORIST CONTROL ACT; AMENDING SECTION 18-8102, IDAHO CODE, TO REVISE THE DEFINITION FOR "TERRORISM."

S 1236

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO AUTOMOBILE INSURANCE; AMENDING CHAPTER 25, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-2517, IDAHO CODE, TO PROVIDE THE EFFECT OF SUSPENSION, CANCELLATION OR REVOCATION OF A MINOR'S DRIVING PRIVILEGES ON AN AUTOMOBILE INSURANCE POLICY.

S 1237

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO PYRAMID SCHEMES; AMENDING SECTION 18-3101, IDAHO CODE, TO REVISE TERMINOLOGY, TO PROHIBIT CERTAIN ACTIONS RELATING TO PYRAMID PROMOTIONAL SCHEMES, TO DELETE THE DEFINITION FOR "CHAIN DISTRIBUTOR" OR "PYRAMID DISTRIBUTOR SCHEME," TO DEFINE TERMS, TO REVISE DEFINITIONS, TO PROVIDE THAT CERTAIN PLANS OR OPERATIONS SHALL NOT BE PROHIBITED OR DEFINED AS PYRAMID PROMOTIONAL SCHEMES, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION.

S 1238

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CAPITOL ENDOWMENT FUNDS; AMENDING SECTION 67-1610, IDAHO CODE, TO PROVIDE FOR THE RETENTION OF EARNINGS OF THE CAPITOL PERMANENT ENDOWMENT FUND, TO PROVIDE FOR THE DEPOSIT OF PROCEEDS OF TIMBER SALES, CAPITOL BUILDINGS ENDOWMENT LAND LEASE REVENUES AND INTEREST CHARGED ON CAPITOL BUILDINGS DEFERRED PAYMENTS ON ENDOWMENT LANDS OR TIMBER ON THOSE LANDS INTO THE CAPITOL PERMANENT ENDOWMENT FUND AND TO PROVIDE FOR THE ANNUAL DISTRIBUTION OF AN AMOUNT DETERMINED BY THE

ENDOWMENT FUND INVESTMENT BOARD TO THE CAPITOL ENDOWMENT INCOME FUND; AMENDING SECTION 67-1611, IDAHO CODE, TO PROVIDE FOR DISTRIBUTION FROM THE CAPITOL PERMANENT ENDOWMENT FUND TO THE CAPITOL ENDOWMENT INCOME FUND AND TO DELETE REFERENCE TO PROCEEDS OF THE SALE OF TIMBER GROWING UPON CAPITOL ENDOWMENT LANDS, LEASES OF CAPITOL BUILDINGS ENDOWMENT LANDS AND INTEREST CHARGED UPON DEFERRED PAYMENTS ON CAPITOL BUILDINGS ENDOWMENT LANDS OR TIMBER ON THOSE LANDS; PROVIDING AN EFFECTIVE DATE AND PROVIDING APPLICATION.

S 1231, S 1232, S 1233, S 1234, S 1235, S 1236, S 1237, and S 1238 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 475, by Transportation and Defense Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

H 503 and **H 504**, by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Stegner, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 11:15 a.m., Wednesday, January 28, 2004.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary